

109TH CONGRESS
1ST SESSION

S. 1758

To amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2005

Mr. MCCAIN (for himself and Mr. DORGAN) introduced the following bill;
which was read twice, considered, read the third time, and passed

A BILL

To amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LOAN GUARANTY AND INSURANCE.**

4 (a) IN GENERAL.—Section 201 of the Indian Financ-
5 ing Act of 1974 (25 U.S.C. 1481) is amended—

6 (1) by striking “SEC. 201. In order” and insert-
7 ing the following:

8 **“SEC. 201. LOAN GUARANTIES AND INSURANCE.**

9 **“(a) IN GENERAL.—In order”;**

1 (2) by striking “the Secretary is authorized (a)
2 to guarantee” and inserting “the Secretary may—

3 “(1) guarantee”;

4 (3) by striking “members; and (b) in lieu of
5 such guaranty, to insure” and inserting “members;
6 or

7 “(2) insure”; and

8 (4) by adding at the end the following:

9 “(b) ELIGIBLE BORROWERS.—The Secretary may
10 guarantee or insure loans under subsection (a) to both for-
11 profit and nonprofit borrowers.”.

12 (b) SALE OR ASSIGNMENT OF LOANS AND UNDER-
13 LYING SECURITY.—Section 205 of the Indian Financing
14 Act of 1974 (25 U.S.C. 1485) is amended—

15 (1) by striking “SEC. 205.” and all that follows
16 through subsection (b) and inserting the following:

17 **“SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDER-**
18 **LYING SECURITY.**

19 “(a) IN GENERAL.—All or any portion of a loan
20 guaranteed or insured under this title, including the secu-
21 rity given for the loan—

22 “(1) may be transferred by the lender by sale
23 or assignment to any person; and

24 “(2) may be retransferred by the transferee.

1 “(b) TRANSFERS OF LOANS.—With respect to a
2 transfer described in subsection (a)—

3 “(1) the transfer shall be consistent with such
4 regulations as the Secretary shall promulgate under
5 subsection (h); and

6 “(2) the transferee shall give notice of the
7 transfer to the Secretary.”;

8 (2) by striking subsection (c);

9 (3) by redesignating subsections (d), (e), (f),
10 (g), (h), and (i) as subsections (c), (d), (e), (f), (g),
11 and (h), respectively;

12 (4) in subsection (c) (as redesignated by para-
13 graph (3)), by striking paragraph (2) and inserting
14 the following:

15 “(2) VALIDITY.—Except as provided in regula-
16 tions in effect on the date on which a loan is made,
17 the validity of a guarantee or insurance of a loan
18 under this title shall be incontestable.”;

19 (5) in subsection (e) (as redesignated by para-
20 graph (3))—

21 (A) by striking “The Secretary” and in-
22 serting the following:

23 “(1) IN GENERAL.—The Secretary”; and

24 (B) by adding at the end the following:

1 “(2) COMPENSATION OF FISCAL TRANSFER
 2 AGENT.—A fiscal transfer agent designated under
 3 subsection (f) may be compensated through any of
 4 the fees assessed under this section and any interest
 5 earned on any funds or fees collected by the fiscal
 6 transfer agent while the funds or fees are in the con-
 7 trol of the fiscal transfer agent and before the time
 8 at which the fiscal transfer agent is contractually re-
 9 quired to transfer such funds to the Secretary or to
 10 transferees or other holders.”; and

11 (6) in subsection (f) (as redesignated by para-
 12 graph (3))—

13 (A) by striking “subsection (i)” and insert-
 14 ing “subsection (h)”; and

15 (B) in paragraph (2)(B), by striking “,
 16 and issuance of acknowledgments,”.

17 (c) LOANS INELIGIBLE FOR GUARANTY OR INSUR-
 18 ANCE.—Section 206 of the Indian Financing Act of 1974
 19 (25 U.S.C. 1486) is amended by inserting “(not including
 20 an eligible Community Development Finance Institution)”
 21 after “Government”.

22 (d) AGGREGATE LOANS OR SURETY BONDS LIMITA-
 23 TION.—Section 217(b) of the Indian Financing Act of

1 1974 (25 U.S.C. 1497(b)) is amended by striking
2 “\$500,000,000” and inserting “\$1,500,000,000”.

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